

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

ORDER DENYING PLAINTIFF'S OBJECTIONS,  
ADOPTING REPORT AND RECOMMENDATION FOR DISMISSAL,  
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH  
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

Plaintiff David Tyron Jones, who is currently a resident of Bolivar, Tennessee, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 on March 30, 2015, accompanied by a motion to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) What appears to be an amendment to the complaint was filed on May 6, 2015. (ECF No. 4.) On December 29, 2015, U.S. Magistrate Judge Charmiane G. Claxton granted leave to proceed *in forma pauperis* and issued a Report and Recommendation (“R&R”) in which she recommended dismissing the case *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B). (ECF No. 6.) Plaintiff filed a timely objection to the R&R on January 21, 2016. (ECF No. 7.)

Plaintiff's complaint in this case is titled, "Afican [sic] American Dieing [sic] Lawsuit Scam," and the only allegation is "Gang control terrism [sic] thunderdorm [sic] canabalism

[sic] fights in our county jails and government mental hospitals causeing [sic] heart attacks [sic] sucide [sic] deaths and lots of missing peoples.” (ECF No. 1 at 1.) The amendment to the complaint contains the same allegations and adds that “the state hospital is trying to kill me for Shelby County goverment [sic] Miss Lucy Mills and Doctor David Crawford. I fear for my life.” (ECF No. 4 at 1.)

In the R&R, Magistrate Judge Claxton determined that Plaintiff’s allegations were incomprehensible and did not assert any colorable claim against any defendant under any legal theory. Plaintiff’s objection to the R&R states:

Fileing [sic] appeal in the United States District Court for the Western District of Tennessee Western Division[.] Request for damages or other relief[.] State claim on which relief may be granted[.] Sueing [sic] for 15 million dollar[.] That I have to die in Jail and at the Mental Hospital Institute and causeing [sic] me to suffer from P.D.S. disorder that cause me to have to take medication for the rest of my life and takeing [sic] me off of my trial in Crimial [sic] Court Div 3 were [sic] I couldn’t plead guilty to my charge. I can pass a lie detecter [sic] test.

(ECF No. 7 at 1.) This objection is also incoherent and is DENIED.

The Court finds no error in Magistrate Judge Claxton’s conclusion that Plaintiff’s complaint fails to state a claim on which relief may be granted and hereby ADOPTS the R&R. This case is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court must also consider whether Plaintiff should be allowed to appeal this decision *in forma pauperis*, should he seek to do so. Pursuant to the Federal Rules of Appellate Procedure, a non-prisoner desiring to proceed on appeal *in forma pauperis* must obtain pauper status under Federal Rule of Appellate Procedure 24(a). *See Callihan v.*

*Schneider*, 178 F.3d 800, 803-04 (6th Cir. 1999). Rule 24(a) provides that if a party seeks pauper status on appeal, he must first file a motion in the district court, along with a supporting affidavit. Fed. R. App. P. 24(a)(1). However, Rule 24(a) also provides that if the district court certifies that an appeal would not be taken in good faith, or otherwise denies leave to appeal *in forma pauperis*, the party must file a motion to proceed *in forma pauperis* in the Court of Appeals. Fed. R. App. P. 24(a)(4)-(5).

The good faith standard is an objective one. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). The test for whether an appeal is taken in good faith is whether the litigant seeks appellate review of any issue that is not frivolous. *Id.* The same considerations that lead the Court to dismiss this case for failure to state a claim also compel the conclusion that an appeal would not be taken in good faith.

It is CERTIFIED, pursuant to Federal Rule of Appellate Procedure 24(a), that any appeal in this matter by Plaintiff is not taken in good faith. Leave to appeal *in forma pauperis* is, therefore, DENIED. Accordingly, if Plaintiff files a notice of appeal, he must also pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* and supporting affidavit in the Sixth Circuit Court of Appeals.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd  
JAMES D. TODD  
UNITED STATES DISTRICT JUDGE